

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

**Re: ECF Nos. 6871, 6879, 7084,
7312, 7534, 7845, 8207, 8383, 8496,
8587, 8709, 8842, 8873, 8901, 8905**

(Jointly Administered)

URGENT JOINT MOTION IN COMPLIANCE WITH ORDER [ECF NO. 8905]
PROVIDING THE REQUIRED BRIEF JOINT STATUS REPORT

To the Honorable United States Magistrate Judge Judith Gail Dein:

The Commonwealth of Puerto Rico (the “Debtor”) and Cuerpo Organizado de la Policia, Inc.’s (the “Movant” and with the Debtor, the “Parties”) respectfully submit this urgent brief joint status report in compliance with this Court’s *Orders* [ECF No. 8873 and ECF No. 8905] (the “Orders”) and request the entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), establishing the deadlines for the filing of motions consistent with this Court’s briefing schedule as set forth in its Orders.²

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).³

² The Financial Oversight and Management Board for Puerto Rico, as the Debtor’s representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”)*, has authorized the Department of Justice to file this Urgent Motion on behalf of the Commonwealth.

Procedural Summary

1. On May 8, 2019, Movant filed its *Motion of Cuerpo Organizado de la Policía, Inc. for Order, Under Bankruptcy Rule 2004, Authorizing Discovery of Title III Debtors Other than COFINA, Concerning Salaries Owed Pursuant to Pay Scales Granted by Law* [ECF No.6871] (the “Motion”), requesting that the Court: (i) authorize Movant’s request for production of documents concerning salaries owed for past promotions that had allegedly not been paid by the Puerto Rico Police Department; (ii) authorize the issuance of the document requests contained in Exhibit B of the Motion; and (iii) direct the Debtor to meet and confer with Movant regarding the timing of the production. Motion p. 8.

2. After several extensions, on October 11, 2019, the Debtor produced the information and documentation requested by Movant under Bankruptcy Rule 2004, and filed a *Motion Informing Compliance with Rule 2004 Request* [ECF No. 8842] (the “Motion in Compliance”) notifying the Court of such compliance.

3. On October 16, 2019, this Court issued an order requiring the parties to “meet and confer on the [*Motion Informing Compliance with Rule 2004 Request*] and provide the Court with a brief joint status report indicating whether any issues remain under the Rule 2004 request by **4:00 p.m. on October 21, 2019.**” [ECF No. 8873].

4. On October 18, 2019, a *First Consented Motion for Extension of Deadlines* [ECF No. 8901] was filed in which Parties informed the Court that they would meet and confer on October 22, 2019 and which Movant requested until November 1, 2019 to file a response to Debtor’s compliance with the production.

5. The Court issued an *Order* granting said motion and gave the Parties until October 24, 2019 at 4:00 p.m. to file the brief joint status report [ECF No. 8905].

Brief Joint Status Report

6. On October 22, 2019, the Parties met and conferred regarding issues remaining regarding Movant's Motion.

7. Movant informed that its position was that the discovery of documentation/information requested under Bankruptcy Rule 2004 should include all police agents that were creditors at the moment of the filing the Motion [ECF No. 6871] on May 8, 2019; regardless of whether the police agents received the owed payments of wages after the filing of said Motion.

8. Debtor informed that its position was that, since Rule 2004 provides a discovery mechanism for creditors, the information and documentation that had to be produced was only limited to those police agents that were owed wages at the time of the deadline set by the Court. In other words, the Debtor's position is that it complied with the Motion by discovering the requested information and documentation of the police agents that are currently creditors and not of those that have already received their payment of wages.

9. The Parties acknowledge the controversy regarding the scope of Movant's Rule 2004 request for documentation and information. Specifically, the controversy is whether the Debtor has to produce information of police agents that were not creditors at the time of the filing of the Motion since these police agents had already accepted their payments of owed wages or if the Debtor has to discover information and documentation of all police agents, regardless of whether those police agents are not creditors of the Debtor.

10. After conferring, the Parties have agreed to the following proposed deadlines:

- Movant will file its opposition to Debtor's discovery of documentation and information submitted on October 11, 2019, by the Court deadline of **November 1, 2019.**
- Debtor will file a response to Movant's opposition by **November 11, 2019.**
- Thereafter, the issue on whether the Debtor's discovery produced on October 11, 2019 under Rule 2004 was sufficient will be submitted for this Court's determination.

11. Pursuant to Paragraph 1.H of the *Tenth Amended Notice, Case Management and Administrative Procedures* [ECF No. 8027-1] (the “Case Management Procedures”), parties hereby certify that they have carefully examined the matter and concluded that there is a true need for an urgent motion; they have not created the urgency through any lack of due diligence; has made a bona fide effort to resolve the matter without a hearing; have made reasonable, good-faith communications in an effort to resolve or narrow the issues that are being brought to the Court, and no party opposes the relief requested herein.

Notice

12. The Debtor has provided notice of this motion in accordance with the Case Management Procedures to the following parties: (a) the Office of the United States Trustee for the District of Puerto Rico; (b) the indenture trustees and/or agents, as applicable, for the Debtors' bonds; (c) the entities on the list of creditors holding the 20 largest unsecured claims against COFINA; (d) counsel to the statutory committees appointed in these Title III cases; (e) the Office of the United States Attorney for the District of Puerto Rico; (f) counsel to the

Oversight Board; (g) the Puerto Rico Department of Justice; (h) the Other Interested Parties;³ (i) all parties filing a notice of appearance in these Title III cases; and (j) Movant. A copy of the motion is also available on the Debtors' case website at <https://cases.primeclerk.com/puertorico/>.

13. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtor requests the Court enter the Proposed Order and grant such other relief as is just and proper.

Dated: October 24, 2019
San Juan, Puerto Rico

Respectfully submitted,

DENNISE N. LONGO-QUIÑONES
Secretary of Justice

WANDYMAR BURGOS-VARGAS
Deputy Secretary in Charge of Litigation

SUSANA PEÑAGARÍCANO-BROWN
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³ The "Other Interested Parties" include the following: (i) counsel to certain of the insurers and trustees of the bonds issued or guaranteed by the Debtors; and (ii) counsel to certain ad hoc groups of holders of bonds issued or guaranteed by the Debtors.

Exhibit A

Proposed Order